

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of: )  
 )  
Revision of the Commission's Rules To ) CC Docket No. 94-102  
Ensure Compatibility with Enhanced 911 )  
Emergency Calling Systems )  
 )  
Phase II Compliance Deadline for )  
Non-Nationwide CMRS Carriers )  
  
To: Wireless Telecommunications Bureau

**THE NTELOS COMPANIES**  
**PETITION FOR LIMITED WAIVER**

NTELOS Inc. on behalf of itself and its affiliates the Virginia PCS Alliance L.C.; Richmond 20 MHz LLC; and the West Virginia PCS Alliance L.C. (all doing business as, and hereinafter, "NTELOS") hereby respectfully requests a limited waiver to extend the deadline in Section 20.18(g)(1)(v) of the Commission's rules. This section requires that Tier III carriers who have chosen to implement a hand-set based solution to meet the location requirement for Enhanced 911 services achieve a location-capable handset penetration of 95 percent among subscribers by December 31, 2005.<sup>1</sup>

As set forth in this Petition, circumstances exist that make it unlikely that NTELOS will meet the 95 percent subscriber penetration rate by the

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<sup>1</sup> 47. CFR §20.18 (g)(1)(v).

deadline, despite our best efforts at promoting location-capable handsets to NTELOS' customers. For the good cause as shown herein, NTELOS requests an 18-month extension of the penetration requirement, until July 1, 2007.

### **Background**

NTELOS is a Tier III regional wireless carrier that provides service in Virginia and West Virginia as well as small portions of North Carolina, Kentucky and Ohio to approximately 325,000 subscribers. NTELOS has implemented a handset-based location technology for the delivery of E911 Automatic Location Information (ALI) over its Code Division Multiple Access (CDMA) digital PCS network.

On July 26, 2002, the FCC issued its Order to Stay the application of certain of its E911 handset deadlines as applied to Tier III carriers.<sup>2</sup> Specifically, the Commission required Tier III carriers to begin selling location-capable handsets by September 1, 2003; to ensure that 25 percent of all new handsets activated were location-capable by November 30, 2003; 50 percent by May 31, 2004; and 100 percent of new handset activations were location capable by November 30, 2004.

As detailed below, NTELOS has exceeded each one of these interim deadlines and is fully compliant with the requirement that all new handset activations are location capable. Through its continued efforts to encourage

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<sup>2</sup> Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Phase II Compliance Deadlines for Non-National CMRS Carriers, Order to Stay, 17 FCC Rcd 14842, 14842 paragraph 5 (2002) (*Non-National Stay Order*).

customers to upgrade to ALI-capable handsets, the company has made significant progress toward achieving the 95 percent penetration rate within its customer base by the end of 2005. NTELOS estimates that 84 percent of its customers will be using location capable handsets by December 31, 2005.

The Tier III deadlines were such that these smaller carriers were 13 months behind the national carriers in implementing this mandate and six months behind the Tier II carriers. It is clear from recent waivers filed by ALLTEL and Sprint Nextel, as well as the most recent status report filed by Verizon Wireless, that larger carriers are having difficulty achieving 95 percent penetration.<sup>3</sup> If the larger carriers, with the significant head start they enjoyed, will not meet the deadline it is not reasonable to expect smaller carriers like NTELOS to do so.

The E911 benchmarks during 2003 and 2004 involved proactive efforts within NTELOS' control to obtain and distribute ALI-capable handsets. In contrast, the 95-percent penetration requirement is based largely on subscribers being willing to exchange their existing handsets for a newer model. Many NTELOS customers, despite encouragement by the company, are simply hesitant to upgrade their handsets.

### **NTELOS' Effort to Meet the 95 Percent Benchmark**

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<sup>3</sup> *ALLTEL Corporation Petition for Limited Waiver*, CC Docket No. 94-102, September 30, 2005

*Sprint Nextel Corporation Request for Limited Waiver*, CC Docket 94-102, September 29, 2005

*Verizon Wireless Quarterly Report*, CC Docket 94-102, April 29, 2005

NTELOS has vigorously marketed location-capable handsets to its customers. Here are some specific actions taken by NTELOS to meet the 95 percent target:

- NTELOS began offering a location-capable handset 10 months earlier than the required September 1, 2003 deadline.
- NTELOS met the 25 percent FCC mandate 8 months earlier than the required November 30, 2003 deadline.
- NTELOS met the 50 percent FCC mandate 9 months earlier than the required May 31, 2004 deadline.
- NTELOS has always offered existing customers the same handset pricing that is given to new customers.
- NTELOS began promoting location-capable handsets in its advertising in June 2003.
- In December 2004 NTELOS offered its most favorable pricing on location-capable handsets for its shortest contractual commitment, a one-year agreement. Normally these low handset prices would have only been offered with two-year agreements.
- As a standard promotional offer beginning January 21, 2005, the company extended its best handset pricing on one-year agreements to both new and existing customers. This low pricing was formally only offered on two-year agreements.

- NTELOS has generally offered location-capable handsets at very low prices, including a \$0.99 bar style handset, \$9.99 color flip handset and \$19.99 camera flip handset for any length agreement, for new or existing customers. These low prices make a handset upgrade affordable for all customers.
- Starting in December 2004, NTELOS sent approximately 60,400 letters through direct mail to existing customers offering a low price location-capable handset.

Despite the promotions shown above (also see Exhibit 2), many customers remain reluctant to change their handsets for a variety of reasons. Some customers do not want the aggravation of changing speed dial and contact lists stored in the older model phone. A new phone also entails learning new features. Although the new handset may be drastically reduced in price and affordable by itself, the subscriber may have to purchase new accessories such as chargers, headsets, or car kits, devices already in place with their current models.

Another factor contributing to the difficulty of meeting the 95 percent benchmark is the slowing of customer churn. Customers are not changing wireless providers today at the same rates seen in the industry several years ago. Lower churn rates mean less opportunity for NTELOS to make handset upgrades.

As NTELOS and other carriers near the 95 percent penetration goal, it becomes increasingly difficult to migrate customers to new handsets. Many of the older non-compliant handsets belong to customers that only use the phone occasionally. These customers see no reason to upgrade to a new instrument when their current handset performs the needed functions associated with their limited use.

NTELOS has gone to great lengths to market and discount new phones with ALI capabilities, but if customers are satisfied with their handset and with NTELOS service, customers see no reason to replace one phone for another. NTELOS will continue its efforts to identify customers lacking location-capable handsets and convert them to newer models. An 18-month extension of the December 31, 2005 deadline will give NTELOS the time required to convert remaining customers to state-of-the art handsets.

As shown in Exhibit 1, NTELOS fully expects to achieve 95 percent penetration of location-capable handsets by November 1, 2006. In formulating this waiver request, NTELOS debated internally about the length of extension that it would request from the Commission. Although NTELOS expects to be compliant with the 95 percent benchmark within 12 months, the company decided that it should seek an 18-month extension. In this way, NTELOS avoids having to request an additional extension later in the event it encounters unforeseen difficulties in migrating enough customers to newer handsets.

### **NTELOS' Outstanding E911 Record**

A total of 91 Public Safety Answering Points (PSAPs) are located within the NTELOS' serving areas. NTELOS has received 80 Phase II requests and already implemented 73 of them. NTELOS has fulfilled each Phase I and Phase II requests in a timely manner. NTELOS was one of the first wireless carriers to implement Phase II service in Kentucky. NTELOS is active in the Virginia E911 Board activities and works to maintain excellent relationships with the PSAPs throughout its entire service area.

As noted above, 18 of the 91 PSAPs in NTELOS' serving areas do not have Phase II capabilities. NTELOS believes the lack of Phase II service in some areas may actually contribute to the slow changeout of handsets. Along with other reasons cited above, many wireless consumers are reluctant to acquire location-capable handsets when they know that the PSAP will not be able to use the data the handset generates.

### **Conclusion**

NTELOS has a demonstrated record of cooperation with PSAPs in its service areas and takes its wireless 911 obligations very seriously. Although it is a relatively small carrier operating in a largely rural area, NTELOS has made a great deal of progress in reaching the 95 percent penetration deadline. Some 82 percent of NTELOS customers already use location-

capable handsets, and by the end of 2005 that percentage should increase to 84 percent.

The total percentage of NTELOS subscriber with ALI-capable handsets continues to increase, but at a slower rate than in previous years. NTELOS will continue its diligent efforts to promote handset upgrades, but it is clear the small subset of remaining customers will be the hardest to convert.

NTELOS projects it will achieve the 95 percent threshold sometime in the fourth quarter of 2006. For the foregoing reasons, The Commission should grant NTELOS' limited waiver for the reasons described herein and allow NTELOS until June 30, 2007 to meet the 95 percent penetration requirement.

Respectfully submitted,

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